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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/822,792	03/30/2001	Eric Lee Jensen	DP-304351	9135

7590 10/27/2003

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EXAMINER

KRAMER, DEVON C

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 10/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/822,792

Applicant(s)

JENSEN ET AL.

Examiner

Devon C Kramer

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 1-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 16 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

1) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2) Claims 16-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wulff et al (5632361) in view of Keil et al (6382372).

In reference to claims 16-17, 19, 23 and 26, Wulff et al provides a magnetorheological damper comprising: an inner tube (12) with a first end and a second end having an imperforate sidewall; a magnetorheological piston (3) disposed within and slidably engaging the inner tube; an outer tube (4) surrounding the inner tube, wherein the outer tube is in fluid communication with the inner tube; a valve (207) disposed proximate the first end of the inner tube and providing fluid communication between the tubes (please see column 3 lines 25-27). Wulff et al lacks the specific valve arrangement as claimed.

Keil et al provides a valve disposed proximate a first end of an inner tube (30) and providing fluid communication of an outer tube (36) with the inner tube, wherein the valve includes first and second discs (80, 90), a valve body (figure 3) having at least one orifice (72, 74), a spring (82), a bolt (66) having a bolt head and a nut (68) engaged with the bolt to secure together the first and second discs, the valve body, and the spring, wherein the valve body is disposed between the first and second discs, wherein

the second disc is disposed between the valve body and the spring, wherein the spring is disposed between the second disc and the nut, and wherein the first disc is disposed between the bolt head and the valve body.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the valve of Wulff et al with the valve assembly of Keil et al merely because one valve assembly is a functional equivalent of the other.

In reference to claims 18 and 24-25, Wulff et al provides a rod (2) having a first end attached to the piston and having a second end extending outside the inner and outer tubes; wherein the second end of the inner tube is disposed between the first end of the inner tube and the second end of the rod, and wherein the rod contains, and inherently an electrode is disposed in the rod operatively connected to the piston to supply power to the coil. (fig 2, 3, 5a). Please note that the electrode running to the coil has to run through the rod in order to maintain the operation of the damper. Clearly the upper portion of the outer tube of Wulff contains a gas.

In reference to claim 20, Wulff et al teaches the use of a piston with a magnetorheological passageway (8).

In reference to claims 21-22, Wulff et al teaches the outer tube containing the fluid.

Conclusion

3) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devon C Kramer whose telephone number is 703-305-0839. The examiner can normally be reached on Mon-Fri 8-4.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-3519 for regular communications and 703-308-3519 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1134.

DK
October 23, 2003

Devon R. Kim
10-23-03